

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

## CLEAN CRAWL, INC.,

Plaintiff,

V.

## CRAWL SPACE CLEANING PROS, INC.,

Defendant.

CASE NO. C17-1340 BHS

## ORDER GRANTING PARTIES' MOTIONS TO SEAL

This matter comes before the Court on Plaintiff Clean Crawl, Inc.’s (“Clean

Crawl”) motions to seal, Dkts. 169, 209, 224, 229, 236,<sup>1</sup> and Defendant Crawl Space Cleaning Pros, Inc.’s (“Crawl Pros”) motion to seal, Dkts. 171, 241. The Court has considered the pleadings filed in support of and in opposition to the motions and the remainder of the file and hereby grants the motions for the reasons stated herein.

<sup>1</sup> Dkt. 210 contains the material Clean Crawl moves to file under seal in Dkt. 209. Dkt. 223 contains the proposed order which corresponds to the motion in Dkt. 224, and Dkt. 225 contains the exhibits the motion seeks to maintain under seal. Dkt. 230 contains a declaration in support of the motion to seal contained in Dkt. 229. Dkt. 238 contains a declaration in support of the motion to seal contained in Dkt. 236.

## I. DISCUSSION

Because a “strong presumption of access to judicial records applies fully to dispositive pleadings, . . . ‘compelling reasons’ must be shown to seal judicial records attached to a dispositive motion.” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006) (citing *Foltz v. State Farm Mutual Auto. Insurance Company*, 331 F.3d 1122, 1135 (9th Cir. 2003)). “[C]ompelling reasons” may exist if sealing is required to prevent judicial documents from being used ‘as sources of business information that might harm a litigant’s competitive standing.’” *Microsoft Corp. v. Motorola, Inc.*, No. C10-1823JLR, 2012 WL 5476846, at \*1 (W.D. Wash. Nov. 12, 2012) (quoting *In re Electronic Arts*, 298 F. App’x 568, 569 (9th Cir. 2008)).

A motion to seal must include (1) a certification that the parties have conferred on the need to file the document under seal and (2) “a specific statement of the applicable legal standard and the reasons for keeping a document under seal.” Local Rules W.D. Wash. LCR 5(g)(3). This specific statement requires an explanation of “(i) the legitimate private or public interests that warrant the relief sought; (ii) the injury that will result if the relief sought is not granted; and (iii) why a less restrictive alternative to the relief sought is not sufficient.” LCR 5(g)(3)(B).

First, Clean Crawl seeks to seal Exhibits 2 and 3 to the Declaration of John Butler offered in support of its motions in limine, containing excerpts from Crawl Pros's corporate deposition and the deposition of Crawl Pros's president Richard Herron which discuss Crawl Pros's corporate finances. Dkt. 169 at 1–2. The motion confirms that the parties have conferred, a less restrictive alternative is not available, and the excerpts

1 contain confidential financial projections and information which would harm Crawl  
2 Pros's business interests if made public. *Id.* at 2. Clean Crawl later refiled its motions in  
3 limine and refiled the same motion to seal at Dkt. 209. Therefore, the Court grants both  
4 motions.

5 Second, Crawl Pros seeks to file an exhibit in support of its motions in limine  
6 under seal and to file an unreadacted copy of its motions in limine under seal. Dkt. 171.  
7 The motion confirms that the parties have conferred and the material at issue is portions  
8 of Clean Crawl's corporate deposition discussing Clean Crawl's marketing strategies and  
9 revenue projections which would harm Clean Crawl's business interests if made public.  
10 *Id.* at 2–5. Therefore, the Court grants the motion.

11 Third, Clean Crawl seeks to file under seal Exhibits 2 and 3 to the Declaration of  
12 John Butler containing each party's expert reports on economic damages offered in  
13 support of its supplemental motions in limine. Dkt. 224. The motion confirms that the  
14 parties have conferred, a less restrictive alternative is not available, and the exhibits  
15 constitute confidential business information and projections which could be used against  
16 each side by competitors. *Id.* at 2–3. Therefore, the Court grants the motion.

17 Fourth, Clean Crawl seeks to file under seal Exhibits 1 (excerpts from the  
18 corporate deposition of Clean Crawl discussing internal financial tracking, costs to create  
19 marketing materials, and customer confusion), 3 (Clean Crawl's Rule 26(a)(1) initial  
20 disclosures containing revenue and goodwill valuations and projections), 4 (Clean  
21 Crawl's expert report containing business valuation and projections), 5 (Crawl Pros'  
22 expert report containing business valuation and projections), and 6 (excerpts from the

1 deposition of Nadine Sanchez discussing employee recruitment between the companies)  
2 to the Declaration of John Butler in support of its opposition to Crawl Pros's motions in  
3 limine. Dkt. 229. The motion confirms that the parties have conferred, a less restrictive  
4 alternative is not available, and the sealed material consists of confidential business  
5 information which could be used against each side by competitors. *Id.* at 2–3. Therefore,  
6 the Court grants the motion.

7 Fifth, Clean Crawl seeks to file under seal an unredacted version of its  
8 supplemental briefing to the parties' motions in limine. Dkt. 236. The supplemental brief  
9 redacts the cost of past and future corrective advertising and gross profits Clean Crawl's  
10 expert calculates in her expert report which is filed under seal. The motion confirms that  
11 the parties have conferred, there is not a less restrictive alternative, and the redacted  
12 information is confidential business information which could be used against Clean  
13 Crawl by competitors. *Id.* at 2–3. Therefore, the Court grants the motion.

14 Sixth, Crawl Pros seeks to file under seal an unredacted version of its motion to  
15 exclude expert opinion and a copy of its rebuttal expert report. Dkt. 241. The motion  
16 confirms that the parties have conferred and have not identified a less restrictive  
17 alternative to filing under seal but does not articulate a specific statement of the interest  
18 protected by maintaining the material under seal. However, as the Court has herein  
19 granted motions to seal expert reports as containing confidential business information  
20 which could be used against each side by competitors, the Court grants the motion on that  
21 basis as well.

## II. ORDER

Therefore, it is hereby **ORDERED** that the parties' motions to seal, Dkts. 169, 171, 209, 224, 229, 236, and 241 are **GRANTED**. The Clerk shall also terminate Dkts. 210, 223, 225, 230, and 238, as they either contain documents improperly identified as motions or documents which are duplicative of the motions granted (as explained in footnote 1).

Dated this 28th day of February, 2020.



BENJAMIN H. SETTLE  
United States District Judge